

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BEARBOX LLC and AUSTIN STORMS,

Plaintiffs,

V.

LANCIUM LLC, MICHAEL T.
MCNAMARA, and RAYMOND E. CLINE,
JR.

Defendants.

C.A. No. 21-534-MN-CJB

REDACTED VERSION

**DEFENDANTS' RESPONSE TO PLAINTIFFS' SEPARATE CONCISE STATEMENT
OF MATERIAL FACTS FOR TRIAL REGARDING ITS INVENTORSHIP AND
CONVERSION CLAIMS**

Dated: July 29, 2022

Redacted Version filed on August 5, 2022

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Pursuant to the Court's Scheduling Order (D.I. 35), Defendants submit the following response to the Plaintiffs' Concise Statement of Materials Facts For Trial Regarding Its Inventorship and Conversion Claims (D.I. 178).

1. Disputed. Plaintiffs' alleged "fact" mischaracterizes the evidence, including documents and testimony, on which it is based. *See, e.g.*, D.I. 176, Ex. J (Ehsani Report) ¶ 76 & D.I. 176, Ex. H (Cline Tr.) at 71-72:12-25.
2. Disputed. Plaintiffs' alleged "fact" is an over generalization and mischaracterizes the testimony on which it is based. D.I. 176, Ex. F (McNamara Dep.) at 55:15-22.
3. Disputed. Plaintiffs' alleged "fact" is a legal conclusion and unsupported by the evidence in this case, which demonstrates that Storms did not conceive of the inventions claimed in the '433 patent. *See also* D.I. 153, Ex. A (Ehsani Report ¶¶ 17-18).
4. Disputed. Plaintiffs' alleged "fact" is a legal conclusion and unsupported by the evidence in this case, which demonstrates that Storms did not conceive of the inventions claimed in the '433 patent. *See also* D.I. 153, Ex. A (Ehsani Report ¶¶ 17-18).
5. Disputed. Plaintiffs' alleged "fact" is a legal conclusion and unsupported by the evidence in this case, which demonstrates that Storms did not conceive of the inventions claimed in the '433 patent and did not communicate any such inventions to any of Defendants. *See also* D.I. 153, Ex. A (Ehsani Report ¶¶ 17-18).
6. Disputed. Plaintiffs' alleged "fact" mischaracterizes the testimony on which it is based. Mr. McNamara generally observes confidentiality notices but also normally has nondisclosure agreements in place with Lancium's counterparties. D.I. 176, Ex. F (McNamara Tr.) at 128-129:18-2.

7. Disputed. Plaintiffs' alleged "fact" over generalizes and mischaracterizes the twelve pages of testimony on which it is based. *See* D.I. 176, Ex. H (Cline Tr.) at 139-150.
8. Disputed. Plaintiffs' alleged "fact" is an over generalization and mischaracterizes the testimony on which it is based. *See* D.I. 176, Ex. W (Siddiqi Tr.) at 57-58.
9. Disputed. Plaintiffs' alleged "fact" mischaracterizes the evidence, including documents and testimony, on which it is based. *See* D.I. 176, Ex. J (Ehsani Report ¶ 76) & Ex. H (Cline Tr.) at 127-128:17-22.
10. Disputed. Plaintiffs' alleged "fact" is a legal conclusion and is inaccurate. Lancium has not used any "Bitcoin miner breakeven method" disclosed to it (or any of Defendants) by Storms. D.I. 176, Ex. W (Siddiqi Tr. at 22, 24, 37).
11. Disputed. Plaintiffs' alleged "fact" mischaracterizes the evidence, including documents and testimony, on which it is based. Before filing U.S. Provisional Patent Application No. 62/927,117, [REDACTED]
[REDACTED]
[REDACTED]. *See, e.g.*, D.I. 176, Ex. H (Cline Tr. at 166:8-11), Ex. F (McNamara Tr.) 97:8-17, 103:13-16, Ex. R (LANCIUM00033139), & Ex. Y (LANCIUM00031222).
12. Disputed. Plaintiffs' alleged "fact" mischaracterizes the evidence, including documents and testimony, on which it is based. *See* D.I. 176, Ex. R (LANCIUM00033139) & Ex. F (McNamara Tr.) at 92:12-16.
13. Disputed. Plaintiffs' alleged "fact" mischaracterizes the testimony on which it is based and confuses the legal concepts of conception and reduction to practice. In addition, after conceiving of the inventions of the '433 patent, McNamara and Cline have had source code

written and hardware built, which can be used to practice the inventions of the ‘433 patent.

See D.I. 176, Ex. H (Cline Tr.) at 35:1-16.

14. Disputed. Although Lancium’s complaint against Layer1 in the case *Lancium LLC v. Layer1 Technologies, Inc.*, Case No. 6:20-cv-739 (W.D. Texas) does not include the word “breakeven,” as Plaintiffs acknowledge, it identified that Lancium’s technology allows a datacenter to act as “a load-only CLR,” which Plaintiffs also allege demonstrates that Lancium practices Storms’ alleged power arbitrage method. See D.I. 176 at 11-12, 32-33. Additionally, [REDACTED]

[REDACTED].” Ex. 31¹ at 280:21-282:2.

15. Disputed. Plaintiffs’ alleged “fact” is ambiguous but also mischaracterizes the testimony on which it is based. D.I. 176, Ex. K (Ehsani Tr.) at 140-141:17-6.

16. Disputed. Plaintiffs’ alleged “fact” is a legal conclusion and is inaccurate. Although Michael McNamara and Raymond Cline conceived the inventions claimed in the ‘433 patent between August 2019 and October 2019, as supported by the evidence in this case, Defendants did not derive the inventions claimed in the ‘433 patent from Austin Storms and Austin Storms is not an inventor of any of the inventions claimed in the ‘433 patent. D.I. 153, Ex. A (Ehsani Report ¶¶ 17-18); see also D.I. 178 ¶ 16 (Exhibits cited in Plaintiffs: “D.I. 151, Ex. 3 (McClellan Opening Report) at ¶¶ 170-294; D.I. 151, Ex. 4 (McClellan Reply Report) at ¶¶ 18-69; Ex. A (BB00000090-97); Ex. E (Storms Tr.) at 86-113; Ex. CC (Defendants’ Second Supplemental Response to Interrogatory No. 3); Ex. J (Ehsani Report) at ¶ 116.”)

¹ All references to Ex. 30 – Ex. 43 are to the declaration of Adam Kaufmann submitted herewith.

17. Disputed. Plaintiffs’ alleged “fact” is a legal conclusion and is inaccurate. The evidence in this case demonstrates that Michael McNamara and Raymond Cline are the true inventors of the inventions claimed in the ‘433 patent. *See, e.g.,* D.I. 153, Ex. A (Ehsani Report ¶¶ 17-18);

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)	
Defendants.)	

CERTIFICATE OF SERVICE

I certify that on July 29, 2022, I caused a sealed copy of the **Defendants' Response to Plaintiffs' Separate Concise Statement of Material Facts for Trial Regarding its Inventorship and Conversion Claims** to be served on the following counsel of record by via email.

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